

R.D. # 0007-02
Princeton, NJ

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22**

**PRIME HOSPITALITY CORP., d/b/a
AMERISUITES HOTEL, PRINCETON¹**
Employer

And

CASE 22-RC-12217

**TEAMSTERS LOCAL UNION NO. 701,
a/w INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, AFL-CIO²**
Petitioner

DECISION AND DIRECTION OF ELECTION

The Petitioner filed a petition under Section 9(c) of the National Labor Relations Act, as amended, seeking to represent an appropriate unit of the Employer's employees. As there were no issues raised which would preclude an election in this matter, I will direct an election in the appropriate unit. I further find, for the reasons described below, that the Hearing Officer properly precluded the Employer from litigating the supervisory status of the assistant executive housekeeper, as the parties agreed that the individual so classified was not a statutory supervisor.

¹ The name of the Employer appears as amended at the hearing.

² The name of the Petitioner appears as amended at the hearing.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding,³ I find:

1. The hearing officer's rulings are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.⁴
3. The labor organization involved claims to represent certain employees of the Employer.⁵
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.⁶
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act.⁷

All full-time and regular part-time housekeeping employees, including housemen, room attendants, laundry employees, the assistant executive housekeeper, breakfast attendants and maintenance employees employed by the Employer at its Princeton, New Jersey facility, excluding all other employees, including office clerical employees, sales employees, guards and supervisors as defined in the Act.

³ A brief filed by the Employer was fully considered.

⁴ The Employer, a Delaware corporation, is engaged in the operation of a hotel and related services at its Princeton, New Jersey facility, the only location involved herein.

⁵ The parties stipulated and I find that the Petitioner is a labor organizations within the meaning of Section 2(5) of the Act.

⁶ There is no history of collective bargaining for the employees in the unit involved here.

⁷ The unit description is in accord with the stipulation of the parties which I find to be appropriate for purposes of collective bargaining. There are approximately 20 employees in the unit.

Despite the factual agreement by the parties that the assistant executive housekeeper, Maria Deleon Rey, possessed no indicia of supervisory status as defined in Section 2(11) of the Act, the Employer contended that it had a right to proffer evidence to support this agreement and that failure to allow it to do so was a denial of its due process rights. The Hearing Officer precluded the Employer from presenting such evidence and rejected its offer of proof that this individual and classification was not supervisory. I find that the Hearing Officer properly precluded the litigation of this matter.

The Board held in *Bennett Industries, Inc.* 313 NLRB 1363(1994) that it has a duty to ensure due process for the parties in connection with the conduct of Board proceedings. In this regard, the Board provides parties with the opportunity to present evidence and argue positions concerning relevant issues. However, the Board also has a duty to protect the integrity of its processes against unwarranted burdening of the record and unnecessary delay. Here, the Employer and the Petitioner were in full agreement as to the facts regarding the proper inclusion of the classification of assistant executive housekeeper in the unit and that Maria Deleon Rey possessed no indicia of supervisory status. Thus, there was no issue in dispute. In these circumstances, I find that the Hearing Officer struck the proper balance between the right to due process and the need for prompt resolution of a question concerning representation. *Mariah Inc.*, 322 NLRB 586 (1996); *HeartShare Human Services of New York, Inc.*, 320 NLRB 1 (1995); *Bennett Industries, Inc.*, above; Cf.: *Health Acquisition Corp., d/b/a Allen*

Health Care Services, 332 NLRB No. 134 (2000); *North Manchester Foundry, Inc.*, 328 NLRB 372 (1999).⁸

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to issue subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States Government may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those

⁸ The Employer's reliance on *The Bees Distributing Co., Inc.* Case 5-RC-14088 decided by the Regional Director in Region 5 and the Board's Order thereon denying the request for review is misplaced as, unlike here, there was disagreement as to the supervisory status of the individuals at issue. In contrast, there is no disagreement as to the inclusion of the classification of assistant executive housekeeper in the unit and that Maria Deleon Rey possessed no indicia of supervisory status.

eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **Teamsters Local Union No. 701, a/w International Brotherhood of Teamsters, AFL-CIO.**

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, two (2) copies of an election eligibility list containing the full names and addresses of all the eligible voters shall be filed by the Employer with the undersigned, who shall make the list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in NLRB Region 22, Veterans Administration Building, 20 Washington Place, 5th Floor, Newark, New Jersey 07102, on or before July 5, 2002. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC

20570-0001. This request must be received by the Board in Washington by July 12, 2002.

Signed at Newark, New Jersey this 28th day of June 2002.

Gary T. Kendellen, Regional Director
NLRB Region 22
Veterans Administration Building
20 Washington Place, 5th Floor
Newark, New Jersey 07102

393-6068 et seq.
393-6075